

**UNITED STATES DEPARTMENT OF COMMERCE****Patent and Trademark Offic**Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/284, 983 05/11/99 MANNER

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EXAMINER

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CLARKE, S

ART UNIT	PAPER NUMBER
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3743

DATE MAILED: 04/13/00

AIR MAIL

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

## Office Action Summary

Application No. 09/284,983	Applicant(s)	Manner
Examiner Sara Clarke	Group Art Unit 3743	

Responsive to communication(s) filed on Jan 19, 2000

This action is **FINAL**.

Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire three month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

### Disposition of Claims

Claim(s) 1-26 is/are pending in the application.

Of the above, claim(s) 23-26 is/are withdrawn from consideration.

Claim(s) \_\_\_\_\_ is/are allowed.

Claim(s) 1-22 is/are rejected.

Claim(s) \_\_\_\_\_ is/are objected to.

Claims \_\_\_\_\_ are subject to restriction or election requirement.

### Application Papers

See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

The drawing(s) filed on May 11, 1999 is/are objected to by the Examiner.

The proposed drawing correction, filed on \_\_\_\_\_ is  approved  disapproved.

The specification is objected to by the Examiner.

The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. § 119

Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

All  Some\*  None of the CERTIFIED copies of the priority documents have been

received.

received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

### Attachment(s)

Notice of References Cited, PTO-892

Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

Interview Summary, PTO-413

Notice of Draftsperson's Patent Drawing Review, PTO-948

Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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## **DETAILED ACTION**

### ***Election/Restriction.***

Claims 23-26 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 4.

Claims 24-26 depend from elected claim 21. However, these claims were, without traverse, not elected. Moreover, the preambles of the these claims are to the non-elected invention. Thus, it is apparent that the applicant intended for these claims to depend from claim 23 (non-elected) and have been treated as such.

### ***Priority***

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

### ***Drawings***

The drawings are objected to because in Fig. 4, one of the lead lines (in the vicinity of numeral 108) does not originate in the immediate proximity of a reference numeral as required under 37 CFR 1.84(q). Correction is required.

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The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: "202" (described on page 17, line 20). Correction is required.

### ***Specification***

This application does not contain an abstract of the disclosure on a consecutively numbered separate sheet as required by 37 CFR 1.72(b) and 37 CFR 1.52(b). An abstract on a consecutively numbered separate sheet is required.

The disclosure is objected to because of the following informalities: On page 6, line 6, "32" should be "29." On page 11, line 13, "to" should be "too." It is unclear what the applicant means by "emersed" on page 15, line 29. Perhaps the term "immersed" was intended. On page 16, the sentence starting on line 21 is awkward and thus difficult to understand. On page 20, line 3, it is unclear what the applicant meant by "thought." Perhaps "through" was intended. Appropriate correction is required.

### ***Claim Objections***

Claims 1-26 are objected to because in the intent statement (page 27, line 1), "We claim" should be "I claim" or "What is claimed is" because there is only one inventor.

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Claim 18 is objected to because it does not end in a period. See MPEP 608.01(m).

Claim 21 is objected to because of the following informalities: "sources" should be "source." Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 3, 16-18, and 24-26 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 3, line 1, there is no antecedent basis for "said granular material."

In claims 3, 17, and 18, it is unclear whether these claims recite Markush groups. If they are Markush groups, then "comprising" should be amended to "consisting of" as per *Ex parte Dotter*, 12 USPQ 382 (Bd. App. 1932).

In claim 16, lines 1 and 2, "an ignition means" has been multiply recited and is thus indefinite. Line 4 of claim 1 provides antecedent basis for "an ignition means," thus rendering the scope of claim 16 unclear as to whether the same ignition means or a second ignition means is being referenced.

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In claims 24-26, it is unclear whether these claims are drawn to a fuel source or a stove because while dependent from claim 21 they also recite a stove.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 4, 6, 7, 11, and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Tanner (US 4326854). Tanner discloses the invention as claimed including a non-combustible carrier such as rock wools. See column 19, lines 19-31.

Claims 1, 3-9, 11, and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Shinholster, Jr. et al. (US 4369054). Shinholster, Jr. et al. discloses the invention as claimed including a porous carrier (see column 3, line 45), a solid fuel (resin see column 6, lines 36-38), and a powdered material (coal dust, see column 6, line 23). Shinholster, Jr. et al. also discloses that the log structure comprises pulp made from among other things paper pulp, nylon fibers, or newsprint (long strand wood fibers). See column 4, lines 9 and 10. Shinholster, Jr. et al. further discloses the use of both short or long fibers from 1/16 to 1/2 long fibers. See column 4, lines 28-45.

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Claims 1, 4-6, 11, 12, 14, 15, and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Campana (US 5290326). Campana discloses the invention as claimed including a substantially conical porous carrier can be made from cotton strands, paper towels, and paper materials impregnated with wax. See column 4, lines 50-58.

Claims 1, 4-6, 11, 14, 17, and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Krei et al. (US 1767293). As disclosed by the applicant on page 14 of his specification, the outer sheath can be made of paper. Krei et al. discloses the invention as claimed including an outer sheath 2 made of paper and impregnated with solid fuel (wax) and denser than the porous carrier, which is disclosed to be made of burlap.

Claims 1, 4, 6, 7, 11, 17, and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Alexander (US 3395003). Alexander discloses the invention as claimed including the fuel source being an insect repellent. Note on line 4 of claim 1, the material includes citronella oil. Note also, on lines 5 and 6 of claim 1, that the paraffin impregnates the porous carrier.

Claims 1 and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by Simmons (US 4959154). Simmons discloses the invention as claimed including a porous carrier (wood chips) and a solid fuel (wax). These chips can be used to clean

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up oil spills by absorbing oil from the surface of water and either burning on site or removing for use in a utility. See column 1, lines 35-63.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 10 and 13 are rejected under 35 U.S.C. 103(a) as unpatentable over Jesse (US 5342418) in view of Chen et al. (US 5037409). Jesse discloses the invention substantially, including the use of cellulosic fiber material used in the diaper industry, as claimed except for an express recitation of wood fibers from processing wood pulp fluff as the cellulosic material. Chen et al. teaches that it is conventional to use fibers of wood pulp fluff as the cellulosic constituent of diapers. It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to use conventional fibers of wood pulp fluff as the cellulosic constituent in the fuel of Jesse because the disclosure of Chen et al. teaches that the use of this material as a matter of conventional knowledge in the art and as such would have been readily appreciated by those skilled in the art.

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Claim 16 is rejected under 35 U.S.C. 103(a) as unpatentable over Haymond (US 2107054) in view of Ferguson (US 4381914). Haymond discloses the invention substantially as claimed with the exception of an ignition means adjacent the combustion initiating means. Ferguson discloses a candle and teaches the use of a match adjacent a wick to aid in igniting the wick. It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to provide the fuel unit of Haymond with an ignition means adjacent the combustion initiating means as taught by Ferguson to aid in igniting the combustion initiating means.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Wollen (US 5393310) and Gunnerman (US 4308033) disclose various consolidated fuels.

### ***Contact Information***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sara Clarke whose telephone number is (703) 308-1388. The examiner normally can be reached on weekdays from 8:30 to 5:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ira Lazarus, can be reached at (703) 308-1935. The facsimile number for this group is (703) 305-3463.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the group receptionist whose telephone number is (703) 308-0861.

*Sara Clarke*  
Sara Clarke  
Patent Examiner  
Art Unit 3743

April 10, 2000